

70th MEETING
OF THE
MARYLAND HEALTH CARE COMMISSION

Tuesday, March 22, 2005

Revised Minutes

Chairman Salamon called the meeting to order at 1:00 p.m.

Commissioners present: Ginsburg, Lucht, Moffit, Moore, Nicolay, Pollak, Risher, Toulson and Row

ITEM 1.

Approval of the Minutes

Commissioner Nicolay made a motion to approve the minutes of the February 10, 2005 teleconference meeting of the Commission, which was seconded by Commissioner Row, and unanimously approved. Commissioner Row made a motion to approve the minutes of the February 16, 2005 meeting of the Commission, which was seconded by Commissioner Toulson, and unanimously approved.

ITEM 2.

Update on Commission Activities

- Data Systems and Analysis
- Health Resources
- Performance and Benefits

Copies of the *Update* were available on the documents table and on the Commission's website at: <http://www.mhcc.state.md.us/mhccinfo/cmsnmtgs/updates/>.

ITEM 3.

FINAL ACTION: COMAR 10.24.01 – Determination of Certificate of Need for Health Care Facilities

Chairman Salamon said that Suellen Wideman, Assistant Attorney General, would present regulations for final action on COMAR 10.24.01, Determination of Certificate of Need for Health Care Facilities. Ms. Wideman asked the Commission to adopt the CON procedural regulations with certain non-substantive changes. She said that on November 23, 2004, the Commission adopted, as proposed, permanent regulations, certain changes to the procedural regulations that govern the review of all applications for a Certificate of Need. Following a brief discussion among the members of the Commission, Commissioner Ginsburg made a motion that the Commission adopt the regulations as final regulations, which was seconded by Commissioner Row, and unanimously approved.

FINAL ACTION: COMAR 10.24.01 – Determination of Certificate of Need for Health Care Facilities is hereby APPROVED.

ITEM 4.

FINAL ACTION: COMAR 10.25.02 – User Fee Assessment of Health Care Practitioners

The Chairman announced that the next agenda item involved final approval to the regulations governing user fee assessments on health care practitioners. Bridget Zombro, Associate Deputy Director, presented a summary of the proposed changes. She said that the draft regulatory changes had been sent to the assessed groups and posted on the Commission's website for informal public comment. No comments were received during this informal comment period. Commissioner Row made a motion to adopt the regulations as final regulations, which was seconded by Commissioner Risher, and unanimously approved.

FINAL ACTION: COMAR 10.25.02 – User Fee Assessment of Health Care Practitioners is hereby APPROVED.

ITEM 5.

FINAL ACTION: COMAR 10.25.03 – User Fee Assessment of Payers, Hospitals, and Nursing Home

Ms. Zombro presented the changes to the regulations governing user fee assessments on payers, hospitals, and nursing homes. She said that the Commission received comments from the Health Facilities Association of Maryland and Mid Atlantic LifeSpan. After a brief discussion, Commissioner Row made a motion to adopt the regulations as final regulations, which was seconded by Commissioner Risher, and unanimously approved.

FINAL ACTION: COMAR 10.25.03 – User Fee Assessment of Health Care Practitioners is hereby APPROVED.

ITEM 6.

FINAL ACTION: COMAR 31.11.12 – Limited Health Benefit Plan

The Chairman said that the next agenda item would be a request for Commission action on adopting the proposed Limited Benefit Plan (LBP) regulations as final regulations. Jane Pilliod, Assistant Attorney General, presented a summary of the proposed regulations which were approved by the Commission at the December 2004 meeting. After some discussion, Commissioner Row made a motion to adopt the regulations as final regulations, which was seconded by Commissioner Risher, and unanimously approved.

FINAL ACTION: COMAR 31.11.12 – Limited Benefit Plan is hereby APPROVED.

ITEM 7.

INSTITUTIONAL REVIEW BOARD APPROVAL: Release of Data from Medical Care Data Base – Johns Hopkins University - Study of Patients with Immune Thrombocytopenic Purpura in Maryland

Chairman Salamon said that Dr. David Sharp, Chief, EDI Programs and Payer Information Systems, would provide the Institutional Review Board's recommendation for Commission action. Dr. Sharp said that Dr. Jodi Segal, Assistant Professor of Medicine at the Johns Hopkins University School of Medicine, requested data from the Medical Care Data Base to study the prevalence of outpatient visits for patients with Immune Thrombocytopenic Purpura (ITP) in Maryland. He said that Dr. Segal plans to use this data to better understand the incidence and prevalence of chronic ITP statewide and that the project is funded through a grant by the National Institute of Environmental Health Sciences at the National Institutes of Health. Dr. Sharp noted that the IRB recommended approval of this application by an 8-0 vote. Commissioner Pollak made a motion to accept the IRB's recommendation, which was seconded by Commissioner Row, and unanimously approved.

INSTITUTIONAL REVIEW BOARD: Release of Data from Medical Care Data Base – Johns Hopkins University - Study of Patients with Immune Thrombocytopenic Purpura in Maryland is hereby APPROVED.

ITEM 8.

CERTIFICATE OF NEED (CON)

- **Asbury Solomon's Request for Additional CCF Beds, Docket No. 04-04-2142**

Chairman Salamon said that there were three Certificate of Need proposals and two requests for exemption from Certificate of Need, which required Commission action. He asked Susan Panek, Chief, Certificate of Need Program, to present the Certificate of Need request from Asbury-Solomons, Inc. Ms. Panek said that Asbury-Solomons, Inc. is a 42-bed nursing facility serving the continuing care retirement community ("CCRC") in Calvert County. She said that facility has applied for CON approval to add eight new comprehensive care facility ("CCF") beds currently projected by the Commission's State Health Plan as needed in neighboring St. Mary's County. Because all of the patient rooms needed to implement the eight public CCF beds exist as part of the Asbury-Solomons nursing facility, the capital costs of the project total \$16,000 in minor moveable equipment, primarily for furniture for the previously unused rooms. Ms. Panek said that staff recommended that the Commission approve the Certificate of Need application with

several conditions related to clarifying and monitoring Asbury-Solomons compliance with the minimum Medicaid access rule for publicly-available beds. After a brief discussion, Commission Ginsburg made a motion to approve that staff recommendation, which was seconded by Commissioner Row, and unanimously approved.

ACTION: Asbury Solomon's - Application for Certificate of Need for Expansion Project, Docket No. 04-04-2142, is hereby APPROVED.

- **Keswick Multi-Care Center, Docket No. 04-24-2136**

Chairman Salamon asked Joel Riklin, Health Policy Analyst, to present the Staff recommendation regarding Keswick Multi-Care Center's proposal. Mr. Riklin said that Keswick Multi-Care Center has applied for Certificate of Need to replace one building on its campus and to undertake related facility improvements at a capital cost of \$12,143,000. He said that the project involved the relocation of 48 currently licensed CCF beds from an existing building on the Keswick campus to a new building and the addition of twenty CCF beds, including ten waiver beds and ten licensed and temporarily delicensed CCF beds to be relocated from other Baltimore City nursing facilities, as well as the relocation of Assisted Living services to space vacated by the 48 CCF beds. After some discussion, Commissioner Ginsburg made a motion to approve the staff recommendation, which was seconded by Commissioner Risher, and unanimously approved.

ACTION: Keswick Multi-Care Center – Replacement Hospital Facility, Docket No. 04-24-2136, is hereby APPROVED.

- **Lorien LifeCenter Baltimore County, Docket No. 04-03-2143**

The Chairman said that Lorien LifeCenter-Baltimore County is seeking a new CON for a site change for 70 comprehensive care facility beds that were granted a CON in 1998, but remains undeveloped. He asked Pam Barclay, Interim Executive Director, to present the Staff recommendation for the Commission's approval. Commissioner Risher recused herself from consideration of this matter. Ms. Barclay said that the proposed site is located at a "planned unit development" that included the Mays Chapel Ridge Independent and Assisted Living Community. She said the proposed 70-bed facility will be a three-level structure, comprising 44,250 square feet. The estimated cost for the proposed project is \$7,597,400, consisting of \$6,747,400 in capital costs, \$500,000 in working capital, and \$350,000 in financing and related costs. The project will be financed by a cash contribution of \$2,347,400, a mortgage of \$4,750,000, and working capital loans of \$500,000. Ms. Barclay said if the Commission does not approve this Certificate of Need, it will be returned to Commissioner Risher for a decision in the stayed withdrawal proceeding, therefore, Commissioner Risher asked to be recused from this action item. Commissioner Row made a motion to accept the staff recommendation, which was seconded by Commissioner Moffit. Seven Commissioners voted to approve the staff recommendation, Commissioner Toulson voted against the motion, and the motion carried.

ACTION: Lorien LifeCenter Baltimore County, Docket No. 04-03-2143, is hereby APPROVED.

- **Potomac Ridge at Anne Arundel, Transfer of Two Residential Treatment Center Beds**

Chairman Salamon said that the next matter was a request for Exemption from Certificate of Need from Potomac Ridge at Anne Arundel, which would be presented by Susan Panek. Ms.

Panek said that Potomac Ridge Behavioral Health System has requested that the Commission grant an exemption from Certificate of Need permitting it to delicense two residential treatment center (“RTC”) beds located in Rockville, Montgomery County, and relicense them at the Mental Hygiene Administration (“MHA”) facility located on the campus of the former Crownsville Hospital Center in Anne Arundel County. She said that, since the demand for placement in this intensive RTC program has remained high, MHA and Potomac Ridge Behavioral Health wants to increase the 26-bed treatment capacity at Potomac Ridge at Anne Arundel by two beds. Commissioner Nicolay made a motion to approve the staff recommendation, which was seconded by Commissioner Pollak, and unanimously approved.

ACTION: Potomac Ridge at Anne Arundel – Exemption from Certificate of Need, Transfer of Two Residential Treatment Center Beds, is hereby APPROVED.

- **Washington County Hospital, Closure of the Extended Care Facility**

Chairman Salamon said that the last Certificate of Need item is a request from the Washington County Hospital Association, which would be presented by Rhoda Wolfe-Carr, Health Policy Analyst. Ms. Wolfe-Carr said that the Washington County Hospital Association notified the Commission of its intention to permanently close its 34-bed hospital-based skilled nursing, or extended care facility, unit because of the financial losses it has sustained as a result of changes in the way Medicare reimburses the hospital for subacute care subsequent to the unit’s original licensure in 1987. She said that Washington County Hospital had already reduced the total bed capacity of the ECF unit from 47 to 34 beds under the Commission’s regulations governing the temporary delicensure of beds or facilities. After discussion, Commissioner Row made a motion to approve the request to close Washington County Hospital Association, which was seconded by Commissioner Toulson, and unanimously approved.

ACTION: Washington County Hospital – Exemption from Certificate of Need, Transfer of Two Residential Treatment Center Beds, is hereby APPROVED.

ITEM 9.

PRESENTATION: *Practitioner Utilization: Trends Within Privately Insured Patients 2002-2003*

Chairman Salamon said that every year since 1996, the Commission has published a Practitioner Utilization report, which describes the use of insured practitioner services by residents and the associated payments by insurance companies and recipients of those services.

Ben Steffen, Deputy Director, and Dr. Curt Mueller from the National Opinion Research Center at University of Chicago, presented the findings of this year’s report. Some of the conclusions were that growth in payments was driven by volume and intensity increases. The number of privately insured users was trending downward. The modest fee increase first reported in 2002 continued in 2003. Overall fees are about four percent higher than in 1999. Maryland fees are relatively low (about 25th percentile of states) plausibly due to high physician supply and managed care penetration. There is little evidence to suggest they have changed from 2002. CSHBP out-of-pocket share of costs are above, but relatively close to, shares calculated for other group products. Growth in diagnostic imaging continued in 2003. Payment rates for these services fell, but total spending continues to grow.

ITEM 10.

PRESENTATION: *Assisted Living Utilization Guide: Version 1*

Chairman Salamon asked Ben Steffen to provide background on the initiative of the Assisted Living Utilization Guide and preview of the website. Mr. Steffen said that the web-based guide contains information on more than 300 Assisted Living Facilities that have 10 or more licensed beds in the State of Maryland. He said that this Guide is intended to provide useful information to help choose an assisted living facility that is right for a consumer or a family member. He also said that in comparing room rates, some facilities have included the cost of supplemental services in their daily rates and others have not. Chairman Salamon said that staff should make sure that the public is aware of this site. He also said that the use of the site should be monitored by staff.

ITEM 11.

UPDATE ON THE CON TASK FORCE

Chairman Salamon briefed the Commission on the activities of the Task Force on the Certificate of Need Program. He said that the goals of the Task Force are to enhance the credibility and integrity of the Certificate of Need Program in a dynamic and evolving health care system, by conducting a stakeholder driven review, using a combination of a broadly representative Task Force membership and a public comment process, to gain insight and make recommendations to enhance and improve the program. Chairman Salamon said the Task Force would review and recommend modifications in the scope of services and facilities, enhancements in the review process, and monitoring of the projects under development. The appointment and composition of the Task Force will consist of Chairman Robert E. Nicolay, Commissioners Ginsburg and Moffit, and ten to twenty stakeholders. The Chairman said that staff is in the process of sending letters to stakeholders. He discussed the report development and implementation process and provided a summary of the major activities and a tentative timetable.

ITEM 12.

LEGISLATIVE UPDATE

Chairman Salamon asked Pam Barclay to provide a summary and update of any relevant bills introduced by the legislature to date. Ms. Barclay said that SB 269 “Health – Maryland Health Care Commission – Membership” is scheduled for a hearing in the House and Government Operations Committee on March 23rd. She noted that, when this bill was heard in the Senate Finance Committee, the Commission voted to support SB 269 with an amendment. SB 269 received a favorable report from the Senate Finance Committee with amendments. Following discussion among the Commissioners, Commissioner Pollak made a motion to oppose SB 269, which was seconded by Commissioner Moffit, and unanimously approved.

ITEM 13.

Hearing and Meeting Schedule

Chairman Salamon announced that the next meeting of the Commission would be on Wednesday, April 20, 2005 at 4160 Patterson Avenue, Room 100, in Baltimore, Maryland at 1:00 p.m.

ITEM 14.

Adjournment

There being no further business, the meeting was adjourned at 3:55 p.m. upon motion of Commissioner Ginsburg, which was seconded by Commissioner Moffit, and unanimously approved by the Commissioners.